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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,855	09/23/2003	Torsten Niederdrank	P03,0381 (26965-3031)	3145
26574 7590 01/21/2009				
SCHIEF HARDIN, LLP PATENT DEPARTMENT 6600 SEARS TOWER CHICAGO, IL 60606-6473				
EXAMINER				
LAO, LUN S				
ART UNIT		PAPER NUMBER		
2614				
MAIL DATE		DELIVERY MODE		
01/21/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action**  
**Before the Filing of an Appeal Brief**

**Application No.**

10/668,855

**Applicant(s)**

NIEDERDRANK ET AL.

**Examiner**

LUN-SEE LAO

**Art Unit**

2614

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 14 January 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/Xu Mei/  
Primary Examiner, Art Unit 2614

Continuation of 11. does NOT place the application in condition for allowance because: The newly submitted drawing will not be entered and is objected to because of the following reasons. First, the application as originally filed, discloses that the estimation unit comprises the high-pass filter 6 and low-pass filter 7 ([0016]) and the feature extraction units 8 and 9 are connected to, the high-pass filter 6 and low-pass filter 7 / estimation unit, rather than form part of the estimation unit. In other words, the amendment to figures 2-6 as newly submitted raised the issue of new matter. Second, as now amended, numeral 13 refers to both the estimation unit and the feedback/oscillation detector, which causes confusion.

Applicant argued that Kates fail to teach a feedback reduction device connected between said signal input device and said signal output device configured to adjustably reduce, compensate or damp said feedback by using at least one adjustable parameter that influences said processed signal; and an estimation unit connected between said signal input device and said feedback reduction device that estimates, from said electrical input signal, an estimated value of a system distance, said system distance being defined as a distance of said loop gain to a predetermined stability limit of said feedback loop, said estimation unit supplying said estimated value to said feedback reduction device and said feedback reduction device being configured to generate said at least one parameter dependent on said estimated value (see the remarks page 6 last paragraph and page 7 second paragraph).

The examiner disagrees. Kates teaches a feedback reduction device ( see fig.4 (402,210,212,206)) connected between said signal input device (202) and said signal output device (220) configured to adjustably reduce, compensate or damp said feedback by using at least one adjustable parameter that influences said processed signal; and an estimation unit (see fig. 4 (402, 210, 212, 206, 214, 222)) connected between said signal input device (202) and said feedback reduction device that estimates, from said electrical input signal, an estimated value of a system distance (distance being defined as between microphone and speaker of said feedback loop gain), said system distance being defined as a distance of said loop gain to a predetermined stability limit of said feedback loop (see fig. 10 and co1.14 line 51-co1.15 line 30), said estimation unit supplying said estimated value to said feedback reduction device and said feedback reduction device being configured to generate said at least one parameter dependent on said estimated value (see col. 11 line 42-co1.12 line 16). Kates(427) reference clearly states that the feedback cancellation processing of the present invention is to eliminate "whistling" due to feedback in an unstable hearing-aid amplification system (see col. 3 line 17-25). It meets the limitation as recited in claim 15 and 22.

Applicant further argued that the Kates et al. reference states that no feedback cancellation can be estimated directly from the initial feedback model.

The examiner responds that "feedback cancellation can be estimated directly from the initial feedback model" is not claimed and thus the argument is moot. Further, the argued "to vary the feedback transfer function  $W$  dependent on the system distance" and "varying the value  $W$  dependent on the estimated system distance" (remarks, pages 7 and 8) are not claimed and thus the argument not persuasive.